

1 read them together but it is clear that his score is  
2 lower on the verbal than the performance?

3 A Yes.

4 Q You take that score of sixty-four and you couple it  
5 with other information that you have the ability to  
6 perform certain functions and routines to determine  
7 whether or not this person is really limited?

8 A Correct.

9 Q Nothing further.

0 MR. SPEIRS: No questions.

1 THE COURT: Thank you, Doctor.

2 (Whereupon the witness, Rudy Buigas, stepped  
3 down from the stand.)

4 MR. SPEIRS: That's all the witnesses I have,  
5 Your Honor.

6 MR. BUTLER: Your Honor, at this time I'm  
7 going to call Mr. Steven D. Harvey, Senior.

8 S T E V E N D. H A R V E Y, Sr.,

9 the witness herein, having first been duly sworn or  
0 affirmed to tell the truth, was examined and testified  
1 as follows.

2 DIRECT EXAMINATION

3 BY MR. BUTLER OF STEVEN D. HARVEY, SENIOR:

4 Q Could you state your name and spell your last name  
5 for the record?

1 A Steven D. Harvey. H-a-r-v-e-y.

2 Q Mr. Harvey, do you know Michael Harvey?

3 A I do.

4 Q And how do you know Mr. Harvey?

5 A He's my son.

6 Q Where do you reside?

7 A I live in Madison, Mississippi.

8 Q And prior to his arrest in this case, did Mr.  
9 Harvey live with you?

0 A Prior to the arrest, about four months prior to up  
1 until then he lived with me.

2 Q He was arrested in March of oh six, so you're  
3 saying on or about the beginning of this year he was  
4 living with you, January of oh six?

5 A Right, around that time.

6 Q How long -- I have to ask. How long have you known  
7 your son?

8 A Since his birth.

9 Q Okay. Has your son, based on what you could see,  
0 developed like other children?

1 A No, he has not.

2 Q Could you describe when you first had an  
3 understanding that -- well, a belief that something --  
4 that your son wasn't learning at the same level of other  
5 children?

1 A From the time he was even an infant, normal age  
2 that a child would start talking and forming words and  
3 sentences, he didn't do that. He was almost two or  
4 more, or a little older before he could speak properly.

5 Q Okay. Did his troubles or difficulties learning  
6 continue?

7 A They did.

8 Q Let's just move this forward. Between about the  
9 ages of two and six, did you notice or observe any  
0 difficulties?

1 A There were some problems. He would throw temper  
2 tantrums for basically no reason. I guess as a loving  
3 parent didn't want to admit that there was something  
4 wrong with my son. I wanted him to grow up and be  
5 healthy, but he had problems.

6 Q Between the ages of two and six, was he in any type  
7 of structured learning the environments, nursery school  
8 or kindergarten?

9 A Nothing really structured, no.

0 Q When did he begin to attend structured learning?

1 A At the age of five I believe he started  
2 kindergarten.

3 Q Okay. And did he perform as the other children?

4 A No, he did not. He did some of his basic things  
5 like learning to tell time, he had extreme difficulties



1 with that.

2 Q But he did eventually learn it?

3 A He did eventually pick it up, yes. I think thanks  
4 to the age of digital clocks, it really helped him out a  
5 lot.

6 Q Early elementary, grades one through five, was he  
7 in class with other the students?

8 A He was for probably through the second grade I  
9 think, but the teachers began to notice -- As a matter  
10 of fact, his second grade year he was held back.

11 Q So he was held back when his class moved to the  
12 third grade he stayed in second?

13 A Right. It was advised to us at that time that he  
14 be placed in special education, or to be tested first.  
15 And we had him tested, and since that time it's pretty  
16 much been special education class.

17 Q He remained in special education classes for the  
18 remainder of his schooling?

19 A Yes, sir, pretty much all his life. There were  
20 some classes that the teachers would attempt to move him  
21 back into mainstream or regular classrooms, but he  
22 didn't do well under those conditions.

23 Q As recently as, and this continued through his  
24 entire life?

25 A Yes, his entire life.

Q I'm just going to move things up. Your son was arrested in March of this year. At the time -- And you indicated that you -- he was living with you in early oh six, possibly around January, three months before this?

A Right.

Q Or December of oh five. Did Michael ever have difficulties following instructions and/or doing what he was told?

A Yes, he did. Michael was -- I'm sorry for hesitating. I don't know how to say this. He was -- If I gave Michael instructions, I would have to give him instructions very specific to what I wanted him to do. And that was one of the things that was talked to his mother and I both in counseling. We had to enter counseling, too, to help us learn how to help him. And we were told to break our instructions down into very simple terms and limit what we told him to do to one thing at a time.

Q Let me back up. If you told him multiple things, like if you gave him multiple requests, let's say three, clean your room, do your homework, take a bath, how would he respond?

A Oh, he would get probably a portion of his room cleaned up, and after that he couldn't handle that much information, or process that at one time.

Q So three instructions were a lot for him to understand?

A Absolutely. It was too much for him.

Q You lived and known your son for his entire life.

A That's correct, yes.

Q And an instruction or an advisement that he has the right to remain silent, anything he says can and will be used against him, you have the right to an attorney, if you cannot afford an attorney one will be afforded to you, based on your twenty years of experience with Michael, let's say that that was explained to him at a normal pace, not rapidly but at a normal pace, when that is given to him how much would he remember or comprehend?

A I don't think he would comprehend anything very much further than you have the right to remain silent.

THE COURT: Well if you told him you've got the right to remain silent, would he understand that?

THE WITNESS: I don't think he would understand what that meant, no, sir. I don't believe he would understand it at all.

Q You told me of an incident where you instructed him to do something, I believe it was regarding the dishes.

A Right.

Q Could you explain what that incident was?

A After dinner, if I told Michael to clean the table,

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for example, it's your turn to clean up the table after dinner, he wouldn't -- he would get his plate, but -- and might get his glass, but after that he wouldn't -- he would just either lose interest or wouldn't know what to do next, basically.

Q My follow-up to that is, when you told him after dinner to clean the table, did he acknowledge yes, I understood you?

A Oh yes, he would start. Anything I instructed him to do he would start.

Q So if you said, for instance, you know, sign this form before you clean the table, he would sign the form?

A Yeah, he would have signed the form probably, but I don't think he would have gotten very far to cleaning the table up after that, no.

Q So it was never clear whether or not even after you told him and he said he understood it, whether or not he really understood anything.

A I knew just from years of being with him and watching him grow up what his limits were, and if I needed him to do something then I would be there with him step by step through the process to do whatever it was that was asked of him. If I wanted him to clean his room, for example, I would explain to him he needed to pick up all his toys. Then I would explain to him to

1 pick up his clothes. And it was a broken down process.

2 Q If you explained to him all of those things even  
3 individually all at one time and he acknowledged them to  
4 you, clean your room means pick up your toys, make your  
5 bed, put your clothes in the closet and fold your  
6 clothes, it entailed those four things, he would, I  
7 don't want to lead you, would he understand those four  
8 things even if they're explained to him slowly?

9 A No.

10 THE COURT: But he can do some things?

11 THE WITNESS: He can do it somewhat if he's  
12 instructed.

13 THE COURT: How?

14 THE WITNESS: He has pretty decent motor  
15 skills as far as hands on. He's quite a good artist, as  
16 a matter of fact. He can draw pretty well. He can draw  
17 things that he sees. I always admired his ability  
18 because I don't have that ability. But I'm proud of him  
19 for that. He's quite an artist.

20 I can take him through the process of tearing  
21 down a head-on a V eight engine, and he'll go through  
22 the process, but I have to be there with him. It's not  
23 something that he could -- he couldn't go through the  
24 process by himself. By no means.

25 Q Mr. Harvey's mother, her name?



A Charlee Power.

Q And you two are no longer together?

A No. We've been divorced since nineteen ninety-three.

Q Does Michael stay with her regularly?

A He went with her at least one weekend a month and two weeks out of the summer. And most of the major holidays, either Thanksgiving or Christmas we'd alternated that through the years, but I had custody.

Q Could you describe for the Court if he was going to see his mother what you would tell him to do as far as packing?

A That was one of the problems that we would have. His mother would call me after he got -- or she picked him up or I carried him. She would call me and say, "He doesn't have any clothes," or "He didn't bring anything but socks." If I told him to pack a bag to go stay at his mother's, I would have to specifically tell him to pack two pair of pants or two shirts. If I just told him to pack his bag for his mother's or for the weekend, he may fill the bag with nothing but socks or nothing but shirts. And that's happened as recently as just a couple of years ago.

Q Did Michael ever have any difficulty with bathing and/or cleansing himself?

A He did.

Q Could you explain that?

A I tried to pass that off as him just being a typical boy and hating to take a bath, but even if he did go to take a bath he wouldn't clean himself properly. He had to be told exactly what to do. And after a time he learned he needed to clean himself.

Q And how old was he before this started to set in?

A Oh, I don't think he bathes properly now, personally.

Q But he's better?

A He's better.

Q In a structured environment where people tell you to get up at a given time, go to point X, go to bed, turn off the lights, Michael might do okay in that environment?

A I know for a fact he was placed for one year in alternative school in Madison County, Mississippi for bad behavior at school. And during that -- It's an extremely structured school. As a matter of fact, the principal of the school was a former military army special forces, eighteen or twenty years with the military. And he ran that school similar to a military fashion. I had a great amount of respect for him, as a matter of fact.

1 But his reports and the teachers' reports were  
2 that there was an adult with him from the time he got on  
3 the bus to the time they brought him home all day, and  
4 he did very well under those conditions where he was  
5 specifically told everything that he had to do. And he  
6 responded in kind.

7 Q A person -- Withdraw it.

8 So in a structured environment, it appears  
9 that he can -- he's performing normally in an ultra  
0 structured environment.

1 A If he's properly supervised, and it takes a great  
2 amount of supervision, he does very well in just about  
3 anything he's given.

4 Q Thank you. Nothing further.

5 CROSS EXAMINATION

6 BY MR. SPEIRS OF STEVEN HARVEY, SENIOR:

7 Q Mr. Power --

8 A I'm Mr. Harvey.

9 Q I'm sorry. Mr. Harvey. I'm Verne Speirs with the  
0 U. S. Attorney's Office.

1 You were not in the Covington County Sheriff's  
2 Office on March sixth of oh six, were you?

3 A No, I was not.

4 Q So you know -- You will agree with me that you have  
5 no idea whether anyone ever became hostile with your



son, is that right?

A I have no idea.

Q You have no idea whether anyone became overbearing or what even the environment was like when your son was giving his interview, do you?

A No, I have no knowledge of that at all.

Q Nothing whatsoever. All right, sir.

Now you testified that your son has the ability to break down a V eight engine?

A No, I did not.

Q If you can explain -- What was it about the engine that your son could do?

A If I worked with him and helped him, he can do that. I can tell him what to do and can he do it.

Q So if you tell him to go get a ratchet, he can identify a ratchet?

A Sometimes.

Q Or if you tell him to go get a hammer, he can go get a hammer?

A Right.

Q Or if you tell him to go get a screwdriver he can get a screwdriver?

A Right.

Q Or if you tell him to get a quart of oil, he can go get a quart of oil?

A Right.

Q Or if you tell him to get any particular tool to accomplish this, if you generally tell him what it is, he can go get it.

A Well, if I tell him to get a nine millimeter metric box and wrench, he's probably not going to do that.

Q Neither could I. But if you told him to go and get basic items, he could go and get those items and help you accomplish the task?

A He certainly can.

Q Thank you, sir. That's all the questions I have.

THE COURT: Thank you, Mr. Harvey.

(Whereupon the witness, Steven Harvey, Senior, stepped down from the stand.):

THE COURT: Your next witness, Mr. Butler?

MR. BUTLER: At this time I'm going to call Charlee Power.

C H A R L E E P O W E R,

the witness herein, having first been duly sworn or affirmed to tell the truth, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. BUTLER OF CHARLEE POWER:

Q Miss Power, make sure you sit nice and close to the microphone so that we can pick you up.